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STATE CAPITOL
PHOENIX, ARIZONA

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DEPARTMENT OF LAW LETTER OPINION NO. 71-33-L (R-96)

REQUESTED BY: ROBERT A. JANTZEN
Director
Arizona Game and Fish Department

QUESTION: Does the amendment of A.R.S. § 13-1675 which provides that all fines and forfeitures collected in any court, except police courts, be paid to the County Treasurer supersede A.R.S. § 17-318?

ANSWER: No.

In 1971 the Arizona Legislature amended A.R.S. § 13-1675 to provide as follows:

"All fines and forfeitures collected in any court, except police courts, shall be paid to the county treasurer of the county in which the court is held. All forfeitures and fines collected in the superior court for violation of a city or town ordinance shall be paid to the county treasurer."

The above statute deals generally with the disposition of fines or forfeitures collected by any court, except police courts. A.R.S. § 17-318 provides for the disposition of fines and penalties collected for the violation of any section of Title 17, Arizona Revised Statutes, which relates to game and fish. Specifically, A.R.S. § 17-318 provides as follows:

"A. Fines or penalties collected for violations of this title shall be immediately paid by the officer collecting or receiving them to the state treasurer, who shall credit the money to the game and fish protection fund."

"B. The state treasurer shall render a monthly statement to the commission on or before the tenth day of each month showing all money received and paid by him during the preceding month under the provisions of this title.

"C. Each justice of the peace and each clerk of a court of record shall, within twenty days after a judgment has been rendered under the provisions of this title, report in writing to the commission the results of the prosecution, the amount of fines or penalties collected, if any, and disposition thereof.

"D. When a person convicted of violating a provision of this title serves the sentence in jail by reason of failure to pay a fine imposed upon him, the actual expense of maintenance of such person shall be a charge against the state game and fish protection fund. The sheriff of the county in which the person is confined shall present a certified claim to the commission, which shall be allowed and paid as other claims are paid."

In construing statutes which are apparently in conflict, such separate statutes must be construed, if possible, so as to give meaning to both. Finch v. Department of Public Welfare, 80 Ariz. 226, 295 P.2d 846 (1956). Further, it is a well established rule of statutory construction that repeals by implication are not favored. Hudson v. Brooks, 62 Ariz. 505, 158 P.2d 661 (1945); Rowland v. McBride, 35 Ariz. 511, 281 P. 207 (1929). While a statute may be repealed by implication as well as by direct language, such implied repeal will not be indulged if there is any other reasonable construction. City of Mesa v. Salt River Agr. Imp. & P. Dist., 92 Ariz. 91, 373 P.2d 722 (1962).

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To conclude that A.R.S. § 13-1675 recognizes that the fines and penalties collected for the violations of game and fish laws would effectively repeal A.R.S. § 17-318, this result would be repugnant to the principles set forth in the above cited cases.

Another well established rule of statutory construction is that where a general comprehensive statute and a special statute both deal with part of the same subject, they should be read together and harmonized if possible. Redewill v. Superior Court, 43 Ariz. 68, 29 P.2d 475 (1934). A special or particular statute is not repealed by a general statute dealing with the same subject matter, unless the intent to repeal is made manifest. Arizona Corporation Commission v. Catalina Foothills Estates, 78 Ariz. 245, 278 P.2d 427 (1955).

By enacting the amendments to A.R.S. § 13-1675, the Legislature did not in any way manifest an intent to change or alter the validity of A.R.S. § 17-318.

Based on the foregoing reasons, it is hereby concluded that by amending A.R.S. § 13-1675, regarding the disposition of fines and forfeitures received by courts, except police courts, the Legislature did not, in any way, affect the disposition of fines and penalties collected for violation of the game and fish laws. Such fines and penalties should continue to be disposed of under the procedures indicated in A.R.S. § 17-318. They must be immediately paid by the officer collecting or receiving them to the State Treasurer, who shall credit the money to the game and fish fund.

Respectfully submitted,

Gary K. Nelson
v. F.S.

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The Attorney General

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